

Goldman Sachs' Report on Review of Arbitration Program

Providing employees a safe and inclusive workplace which is free of discrimination and harassment is among the firm's highest priorities as part of our "people first" commitment.

On June 4, 2021, Goldman Sachs announced it would undertake a comprehensive review to assess the firm's arbitration program, in response to concerns raised by certain shareholders in connection with the April 2021 annual meeting. Specifically, concerns were raised that the firm's use of binding, pre-dispute arbitration agreements may potentially limit employees' remedies for wrongdoing, allow harassment and discrimination to go unseen and unaddressed, and prevent employees from learning about repeat offenders or other shared concerns. The firm has now completed its review of the arbitration program. Based on this review, the Board of Directors of Goldman Sachs has determined that, for Goldman Sachs, arbitration remains the better way to resolve disputes between employees and the firm. Importantly, as described further below, the firm's review established that the general concerns raised about the use of arbitration agreements are not applicable to Goldman Sachs' arbitration program or experience. Nevertheless, the firm takes seriously the shareholder concerns, which are genuine and strongly held. Accordingly, the Board has directed management to institute enhancements to the firm's arbitration program for the purpose of further increasing transparency and accountability including: (1) regular reporting to the Board on sexual harassment matters; (2) regular periodic assessments of the firm's arbitration program; and (3) waiving confidentiality of arbitration decisions on sexual harassment claims at the option of the employee.

In order to assess the impact of the use of mandatory arbitration on Goldman Sachs' employees and workplace culture, in July 2021 the firm retained Steptoe & Johnson LLP ("Steptoe"), to undertake a comprehensive assessment of the firm's arbitration program.

Specifically, Steptoe was asked to advise on whether Goldman Sachs' arbitration program negatively impacts employees' ability to seek redress of discrimination or harassment and whether the confidential nature of arbitration proceedings increases the prevalence of workplace misconduct. Steptoe retained Professor Samuel Estreicher, Director of the Center for Labor and Employment Law and Co-Director of the Institute of Judicial Administration at New York University School of Law, to assist in advising the firm. Steptoe and Professor Estreicher conducted a comprehensive review of Goldman Sachs' arbitration program covering a period of approximately six years. Their assessment was completed in October and provided to the Board of Directors.

In reaching the conclusion that arbitration remains the better way to resolve disputes between employees and the firm, the Board considered Steptoe's and Professor Estreicher's assessment, including the history and experience of arbitration at the firm in the context of the firm's policies, processes and protocols. More particularly, many of the concerns raised about pre-dispute arbitration agreements by certain shareholders in connection with the Goldman Sachs 2021 annual meeting, as well as in public statements and the academic literature, do not apply to Goldman Sachs' program itself or experience with arbitration. There is no indication the current program is negatively impacting employees' ability to seek redress of alleged discrimination or harassment, or that it is increasing the prevalence of discrimination or harassment in the workplace. There also is no sign Goldman Sachs' arbitration program is in any way being used to cover up incidents of discrimination or harassment, protect perpetrators or encourage recidivism.

Goldman Sachs has comprehensive employment policies, procedures and protocols in place for addressing complaints of discrimination and harassment, which the firm follows, regularly reviews and updates. The firm's Code of Conduct, which was recently studied and

updated in March 2021, details the “zero tolerance policy for discrimination and harassment,” which applies on and off premises, at work-related events and outside of work. Employees are encouraged and trained to confront inappropriate behavior and are required to escalate any potential discrimination and harassment concerns they observe in or outside the office.

Goldman Sachs has established a multitude of channels, internal and external, for reporting and escalating complaints, including a hotline and a web portal which allow for anonymous reports by employees and the public. All employee complaints, including complaints of discrimination or harassment, are recorded and investigated, regardless of the channel through which the complaint is raised. At the outset of an investigation, there is a cross-check to determine whether the subject of a complaint has been the subject of prior complaints or disciplinary action. Where wrongful conduct is found, action is taken in accordance with the firm’s disciplinary framework.

After the onset of the “Me Too” movement, the firm undertook a review of its policies and procedures relating to sexual harassment claims. Among other steps, the firm put in place additional outside escalation channels where employees or members of the public can voice their concerns. The firm also instituted a policy that any claim of sexual harassment must be escalated to the firm’s CHRO and General Counsel for review. In addition, if a complaint involves a serious conduct concern (including sexual harassment allegations and regardless of the employee’s role or title), the firm’s policy requires that the Global Disciplinary Council (comprised of the firm’s most senior leaders) and senior managers within the relevant Division are directly informed and conferred with. Similarly, the Global Disciplinary Council and relevant senior managers are informed of every material complaint involving a Managing Director or Partner, regardless of the subject matter. There also is regular reporting to the Board and senior leadership on conduct issues.

Goldman Sachs' arbitration program exists within this robust framework. There is no indication that arbitration limited employees' access to legal representation or inhibited employees' ability to receive a fair and unbiased proceeding and outcome.

Although confidentiality is a hallmark of arbitration proceedings, outcomes of arbitrations are not always confidential. For example, FINRA arbitration awards are public. However, confidentiality can be a benefit of arbitration for both employer and employees. Claims of discrimination or harassment often involve highly sensitive subject matter where confidentiality allows complainants to feel safe coming forward, and where protecting the privacy of the parties and witnesses involved is of paramount importance to all. Additional benefits of arbitration include certainty, consistency, access, and efficiency. It is generally recognized that cases in arbitration reach resolution faster than those in litigation where overburdened court dockets prevent swift justice. There also is no indication that the firm's arbitration program shields employees who engaged in misconduct – sexual harassment or otherwise. The firm's robust policies and procedures for ferreting out, investigating, addressing and reporting misconduct are strong preventative measures for curtailing recidivism.

Given how arbitration fits within the firm's overall framework, the firm's arbitration experience, and the benefits of arbitration to the firm, its employees, and its shareholders, and after considering the concerns raised by certain shareholders, the Board of Directors of Goldman Sachs has determined that it is appropriate to continue the firm's current arbitration program, while instructing firm management to implement certain enhancements to address the concerns raised. Namely, the General Counsel will report to the Board on any material complaints of sexual harassment. The firm also will undertake a periodic assessment of the arbitration program, which will include analyses of arbitration experiences and litigations brought by employees since the

prior review, as well as a report to the Board on the assessment, and recommendations of program enhancements, or a recommendation to change the program if warranted. Finally, while the firm believes that the confidentiality of arbitration proceedings benefits all parties, employees who assert a claim of sexual harassment in an arbitration will have the option to waive confidentiality as to the arbitration decision on the claim in the event it will not already be made public under the applicable forum rules.